

CIA INTERNAL USE ONLY

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 12 June 1974

1. (Internal Use Only - PLC) Called Bob Saloschin, Attorney Advisor for the Office of Legal Counsel, Department of Justice, to discuss the Kennedy bill (H.R. 12471) amending the Freedom of Information Act and to determine if Justice supported the Agency's position to include Intelligence Sources and Methods under exemption (b)(3) which exempts information protected by statute. We also discussed the implications if either the House or Senate versions of exemption (b)(1) was passed. Saloschin opined that "statute" was included in the Senate version of (b)(1) in anticipation of a statutory program for classification becoming law next year. Regardless, he felt that the Agency was adequately protected under either exemption. A court would only have to determine whether or not the information in question is in fact Sources and Methods information and could not exercise any discretion as it would in a review case involving information protected under Executive Order. Presently, the Supreme Court Mink ruling is interpreted by the courts as applying only to (b)(1). He felt sure, however, that if the Agency claimed exemption (b)(3) a court would recognize the inherent sensitivity of the Agency's operations and would not conduct an extensive review. He personally feels that since exemption (b)(1) is recognized by the courts as the exemption for national security matters the Agency would be afforded greater protection under this exemption. Further, he is certain the bill will be vetoed and when it is reconsidered by the Congress the special court review procedures for exemption (b)(1) dropped on the Senate floor will be reinstated. I explained that at this time we favor the House version of exemption (b)(1) and informed him of our discussion with the staff of the House Government Operations Committee. He concluded that in any case both the House and Senate bills present serious problems and the only possible acceptable solution would be the adoption of statutory court review procedures for exemption (b)(1).

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